

AMENDED IN ASSEMBLY JUNE 21, 2006  
AMENDED IN SENATE JANUARY 26, 2006  
AMENDED IN SENATE JANUARY 11, 2006  
AMENDED IN SENATE JANUARY 4, 2006  
AMENDED IN SENATE APRIL 13, 2005

**SENATE BILL**

**No. 740**

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**Introduced by Senator Romero**

February 22, 2005

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An act to ~~amend Section 8314 of, and to add Section 8314.5 to;~~ the Government Code, relating to public agencies.

LEGISLATIVE COUNSEL'S DIGEST

SB 740, as amended, Romero. Public agencies.

Existing law makes it unlawful for any elected state or local officer, including any state or local appointee, employee, or consultant, to use or permit others to use public resources for a campaign activity, or personal or other purposes that are not authorized by law.

~~This bill would also make it unlawful for any staff person to be in violation of the provisions specified above. The bill would,~~ notwithstanding any other provision of law, make it unlawful, except as specified under these provisions, for a state or local officer, including a state or local appointee, employee, ~~staff,~~ or consultant, to use public resources for the creation of a video news release that advocates a position in a rulemaking proceeding in which the officer is exercising quasi-legislative authority to implement *certain* policies he or she will directly or indirectly implement through regulation adopted in the rulemaking procedures.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 8314 of the Government Code is~~  
2     ~~amended to read:~~  
3     ~~8314. (a) It is unlawful for any elected state or local officer,~~  
4     ~~including any state or local appointee, employee, staff, or~~  
5     ~~consultant, to use or permit others to use public resources for a~~  
6     ~~campaign activity, or personal or other purposes that are not~~  
7     ~~authorized by law.~~  
8     ~~(b) For purposes of this section:~~  
9     ~~(1) "Personal purpose" means those activities the purpose of~~  
10    ~~which is personal enjoyment, private gain or advantage, or an~~  
11    ~~outside endeavor not related to state business. "Personal purpose"~~  
12    ~~does not include the incidental and minimal use of public~~  
13    ~~resources, such as equipment or office space, for personal~~  
14    ~~purposes, including an occasional telephone call.~~  
15    ~~(2) "Campaign activity" means an activity constituting a~~  
16    ~~contribution as defined in Section 82015 or an expenditure as~~  
17    ~~defined in Section 82025. "Campaign activity" does not include~~  
18    ~~the incidental and minimal use of public resources, such as~~  
19    ~~equipment or office space, for campaign purposes, including the~~  
20    ~~referral of unsolicited political mail, telephone calls, and visitors~~  
21    ~~to private political entities.~~  
22    ~~(3) "Public resources" means any property or asset owned by~~  
23    ~~the state or any local agency, including, but not limited to, land,~~  
24    ~~buildings, facilities, funds, equipment, supplies, telephones,~~  
25    ~~computers, vehicles, travel, and state-compensated time.~~  
26    ~~(4) "Use" means a use of public resources that is substantial~~  
27    ~~enough to result in a gain or advantage to the user or a loss to the~~  
28    ~~state or any local agency for which a monetary value may be~~  
29    ~~estimated.~~  
30    ~~(e) (1) Any person who intentionally or negligently violates~~  
31    ~~this section is liable for a civil penalty not to exceed one~~  
32    ~~thousand dollars (\$1,000) for each day on which a violation~~  
33    ~~occurs, plus three times the value of the unlawful use of public~~  
34    ~~resources. The penalty shall be assessed and recovered in a civil~~  
35    ~~action brought in the name of the people of the State of~~

1 California by the Attorney General or by any district attorney or  
2 any city attorney of a city having a population in excess of  
3 750,000. If two or more persons are responsible for any violation,  
4 they shall be jointly and severally liable for the penalty.

5 (2) If the action is brought by the Attorney General, the  
6 moneys recovered shall be paid into the General Fund. If the  
7 action is brought by a district attorney, the moneys recovered  
8 shall be paid to the treasurer of the county in which the judgment  
9 was entered. If the action is brought by a city attorney, the  
10 moneys recovered shall be paid to the treasurer of that city.

11 (3) No civil action alleging a violation of this section may be  
12 commenced more than four years after the date the alleged  
13 violation occurred.

14 (d) This section does not prohibit the use of public resources  
15 for providing information to the public about the possible effects  
16 of any bond issue or other ballot measure on state activities,  
17 operations, or policies if both of the following requirements are  
18 met:

19 (1) The informational activities are otherwise authorized by  
20 the constitution or laws of this state.

21 (2) The information provided constitutes a fair and impartial  
22 presentation of relevant facts to aid the electorate in reaching an  
23 informed judgment regarding the bond issue or ballot measure.

24 (e) The incidental and minimal use of public resources by an  
25 elected state or local officer, including any state or local  
26 appointee, employee, or consultant, pursuant to this section shall  
27 not be subject to prosecution under Section 424 of the Penal  
28 Code.

29 ~~SEC. 2.~~

30 *SECTION 1.* Section 8314.5 is added to the Government  
31 Code, to read:

32 8314.5. Notwithstanding any other provision of law, it shall  
33 be unlawful under Section 8314 for a state or local officer,  
34 including a state or local appointee, employee, ~~staff~~, or  
35 consultant, to use public resources for the creation of a video  
36 news release that advocates a position in a rulemaking  
37 proceeding in which that officer is exercising quasi-legislative  
38 authority to implement policies he or she will, directly or  
39 indirectly, implement through regulations adopted in that  
40 rulemaking proceeding. This section does not prohibit the use of

- 1 public resources for video news releases if they are produced in
- 2 conformity with subdivision (d) of Section 8314.

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